

## REMARKS

Applicants respectfully traverse and request reconsideration.

Claims 2-12 and 14-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 5,706,514 to Bonola (“Bonola”). Claims 15, 16, and 18 are independent method claims that contain, among other limitations, “performing the tasks using the available processing resources to perform the tasks of at least one of: graphics image processing, video processing, audio processing and communications processing.” The above-cited limitation was added to method claims 15 and 16 in the previous response filed August 3, 2005, while method claim 18 was added in said response.

In response to Applicants’ arguments that the claims are novel over Bonola for at least the inclusion of this limitation, the Office Action states that:

these features are merely a recitation of the intended use of the claimed invention. Such an intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim....

However, Applicants respectfully note that claims 15, 16 and 18 are method claims. Accordingly, Applicants draw the Examiner’s attention to MPEP § 2112.02 which states, among other things, that “the discovery of a new use for an old structure based on unknown properties of the structure might be patentable to the discoverer as a process of using.” (Emphasis added). While the citation to this section of the MPEP is not intended to serve as an admission that method claims 15, 16 and 18 contain prior art or old structure, it appears that the Office Action incorrectly characterized claims 15, 16 and 18 as apparatus claims. Because claims 15, 16, and 18 are method claims and not apparatus claims, Applicants respectfully note that the limitations are proper, should not have the source of any rejection, and should be properly examined by the

Office. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection and address the claims in light of the above mentioned limitations.

With respect to claim 17, Applicants respectfully note that the limitations of previously presented claim 14 have been cancelled without prejudice and added to claim 17. Additionally, the phrase “without regard to a processor mode” has been added thereto. Applicants respectfully note that unlike Bonola, as claimed, processing of the program code is dynamically allocated without regard to a processor mode. As previously characterized by Applicants in past responses and repeated by the patentee throughout the reference, Bonola teaches “a technique for handling processor mode mismatched instructions or commands encountered by a CPU within a multiprocessor computer system.” (Abstract). Bonola explicitly states that “it would be desirable to utilize features and system resources accessible to a particular microprocessor mode without resorting to slow software emulation or altering the current mode of the 80386 system microprocessor.” (Col. 2, l. 66 – Col. 3, l. 2). For at least the reason that claim 17 requires the allocation of processing of program code without regard to a processor mode, Applicants respectfully present claim 17 for immediate allowance.

Claims 2-12 depend upon allowable claim 15 and further contain novel and non-obvious subject matter over Bonola. For at least the reasons presented above, claims 2-12 are also allowable over the cited prior art.

In light of the foregoing, Applicants respectfully submit that the present application is in condition for allowance and respectfully request that a Notice of Allowance be issued in this case.

Respectfully submitted,

Date: 2/21/06

By: C. Reckamp  
Christopher J. Reckamp  
Registration No. 34,414

Vedder, Price, Kaufman & Kammholz, P.C.  
222 N. LaSalle Street  
Chicago, IL 60601  
(312) 609-7500  
FAX: (312) 609-5005